

REMARKS

With the foregoing amendment, Claims 1-23, 26, 29,30, 32-42, and 44 remain pending in the application. Claims 1 and 42 are amended. Claim 31 is canceled.

Claims 42 and 44 stand rejected under 35 U.S.C. §102(e) as being anticipated by Gaboury et al. (U.S. Patent No. 6,832,397).

Claim 1-17, 22, 23, 26 and 29-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Broyles (U.S. Patent No. 3,049,729) in view of Gaboury et al.

Claims 18-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Broyles in view of Gaboury et al., and in further view of Saputo et al. (U.S. Patent No. 4,734,946).

Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Broyles in view of Gaboury et al., in view of Saputo et al., and further in view of Bellows et al. (U.S. Patent No. 6,557,191).

The present invention, in certain embodiments, includes a mattress assembly constructed substantially of plastic material. The mattress assembly includes a mattress foundation. The mattress includes a generally planar and essentially rigid top surface having an upper side and a lower side. The mattress also includes at least one essentially rigid sidewall. The sidewall may include a lower edge and at least one pair of grooves disposed on opposing portions of the sidewall. The sidewall may extend substantially along the perimeter of the lower side of the top surface and depend downward from the top surface to, thereby, define a cavity. The lower side of the top surface includes at least one reinforcing fin that is oriented perpendicularly to the lower side and extends between opposing sides of the sidewall. The mattress assembly also includes a frame assembly. The frame assembly includes a plurality of ground support members that support the foundation, depend downward from the lower edge of the sidewall, hold the foundation above ground, and maintain the top surface in a substantially horizontal orientation. At least one brace may connect opposing portions of the sidewall or sidewalls. The brace may have end sections configured to latchingly engage with the grooves to prevent outward deflection of the opposing portions of the sidewall or sidewalls.

Gaboury et al. describe a bed foundation which is constructed of blow-molded plastic and may be assembled without tools. The components of the bed foundation are constructed and arranged to allow disassembly and storage when the foundation is not in use. The bed foundation includes side rails to enhance the rigidity of the foundation (See Fig. 2).

The rejection of claims 42 and 44 under 35 U.S.C. §102(e) has been addressed by the amendment to independent claim 42, which now recites that “the lower side of the top surface” includes “at least one reinforcing fin, oriented perpendicularly to the lower side and extending along a portion of the lower side” (See amended claim 42). Support for the claim amendment can be found in Fig. 2, Fig. 3, and at least at page 10, lines 4-5, of the specification and originally filed, but now canceled, claim 31.

According to the Examiner’s assertion that claims 42 and 44 are “clearly anticipated” by Gaboury et al. (See Office Action, page 2, section 2), the “intermediate rails 26” (See Gaboury et al., col. 5, lines 60-67 and Fig.2) must correspond to the “support braces 230” (See Application, lines 10, lines 10-19 and Fig. 2). Therefore, the “reinforcing fin” element, shown by cross-sectional profile 215, is neither taught nor suggested by Gaboury et al because the “reinforcing fin” is clearly not a support brace 230 and, therefore, clearly not an “intermediate rail” as described in Gaboury et al. Thus, the Applicant respectfully requests that the §102 rejection regarding now amended base claim 42 be withdrawn because Gaboury et al. does not teach all of the elements of amended base claim 42.

Claim 44, which depends from and is limited by base claim 42, should also be patentable for the same reasons that claim 42 is patentable. Therefore, Applicant respectfully requests that the §102 rejection regarding claim 42 be withdrawn.

Broyles describes a unitary mattress foundation formed from glass reinforced plastic. The top wall includes ridges to enhance the resistance of the foundation to deformation (See Fig. Figs. 1-3).

Saputo et al. describe a knock down foundation for a flotation sleep system including a plurality of interlocking sections combining to form a rectangular base (See Fig. 1). A planar support made up of separate parts may be disposed over the base covering substantially the entire exposed sheet. A soft-sided waterbed or other sleeping systems is then laid on top of the sheet. The entire apparatus can be quickly and easily knocked down or set up, is light in weight, and easy to ship in a compact form.

Bellows et al. describe a bed frame that includes a headboard, a foot board, a right side rail, and a left side rail. Each side rail has a first member and a corresponding second member. Each of the first members is configured to be releasably attached to the headboard solely by mating end joint members formed in the first members and in the headboard, and each of the second members is configured to be releasably attached to the foot board solely by mating end

joint members formed in the second members and in the foot board. Each of the first members is configured to be releasably attached to the corresponding second member solely by mating side joint members formed in each of the first members and in the corresponding second members.

The Examiner rejected claim 1 under 35 U.S.C. §103(a) as being unpatentable over Broyles in view of Gaboury et al. The Examiner admits that Broyles does not teach or suggest “at least one reinforcing fin...oriented perpendicularly to the lower side of the top surface” (See Office Action, page 3, section 4). The Examiner asserts that Gaboury et al. teach “the at least one reinforcing fin” at col. 5, lines 60-67 and col. 6, lines 1-2 (See Office Action, page 4, first paragraph). The Applicants respectfully disagree.

Now amended claim 1 includes both “at least one brace” and “at least one reinforcing fin” (See amended claim 1). With respect to the above §102 rejection of claim 42, the Examiner has asserted that the “intermediate rails 26” of Gaboury et al. correspond to the “at least one brace.” Therefore, the “intermediate rails 26” cannot correspond to the “at least one reinforcing fin” because such an assertion contradicts the assertion that “intermediate rails 26” correspond to the “at least one brace.” Thus, Gaboury et al. does not teach or suggest the “at least one reinforcing fin” or the combination of “at least one brace” with the “at least one reinforcing fin,” as recited in now amended base claim 1.

Accordingly, Broyles and Gaboury et al., alone or in combination, fail to make a prima facie case of obviousness with respect to amended base claim 1 because the their combination fails to teach all of the elements of amended base claim 1. Furthermore, the combination of Saputo et al. and Bellows et al. with the above references fail to teach all of the elements of amended base claim 1. Therefore the §103 rejection of base claim 1 should be withdrawn.

Because claims 2-23, 26, 29,30, and 32-41 depend from, and are limited by, now amended base claim 1, the §103 rejections of these claims should also be withdrawn.

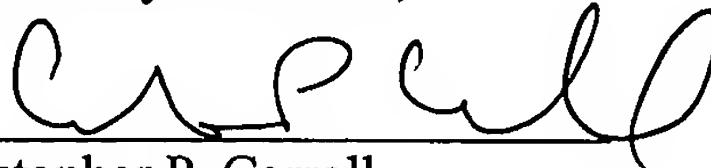
CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

We believe that the appropriate fees are provided in connection with this submission. However, if there are any other fees due in connection with the filing of this Response, please charge the fees to our Deposit Account No. 18-1945, referencing the attorney docket number SMCY-P01-085.

Dated: October 11, 2005

Respectfully submitted,

By 

Christopher P. Carroll

Registration No.: 55,776

ROPES & GRAY LLP

One International Place

Boston, Massachusetts 02110-2624

(617) 951-7000

(617) 951-7050 (Fax)

Attorneys/Agents For Applicant